

twin pillars of innovation and capital formation.

The question as to how derivatives should be regulated is not easy to answer, but Congress should start with some guiding principles. First, derivatives regulation should seek to foster a robust, competitive, and liquid marketplace. Second, systemic counterparty risk exposure must be reduced by incentivizing central clearing and increasing reporting requirements to promote transparency. Third, regulation must preserve the ability to engage in bilateral customized transactions for risk management. Finally, we must coordinate our efforts with the international community to prevent global regulatory arbitrage and the flight of capital to less regulated jurisdictions.

Unfortunately, the regulatory reform proposals making their way through both chambers of Congress fail to take into account the intricacies of this dynamic financial product and expose a fundamental misunderstanding of the way in which the marketplace works. Congress must think through the significant, unintended consequences before we act to mandate that all Over-the-Counter—OTC—derivatives be centrally cleared and executed on exchanges or cash collateralized, as well as subjecting end-users to capital charges. By de-incentivizing companies to use these risk management tools, such proposals will have the perverse effect of increasing business risk and raising costs.

The proposals advocated for by the U.S. Treasury and Chairman of the Senate Banking Committee, Senator CHRISTOPHER DODD, seem to provide too many government mandates and not enough flexibility. The proposed regulatory structure for OTC derivatives is built on an inadequate foundation lacking the staff, expertise, technology, and resources needed to provide truly robust oversight. Clearing and exchange-trading requirements do not accommodate the need for customized transactions. Capital and margin requirements threaten to lock up liquidity. Lack of international coordination guarantees a flight of capital away from our shores.

Derivatives may not be part of the Main Street vernacular, they may be unfamiliar to the local car dealership, but the manufacturers that supply those dealerships know them well. Derivatives provide businesses with access to lower cost capital, enabling them to grow, invest, and retain and create new jobs. With the unemployment rate at 10.2 percent nationally, this is no time to increase uncertainty and business costs.

Congress must be mindful of the mobility of capital in the global marketplace as well. Without a proper regulatory balance, capital can and will accept higher risk for less onerous regulation. We must maintain incentives for business to participate in a large and liquid OTC derivative market, while promoting global coordination to

minimize regulatory arbitrage and systemic risk.

Under current proposals, capital requirements that will be imposed on OTC dealers will pass on additional cost to end-users. Coupling these capital costs with a decreasing ability to customize transactions could result in sharply lower usage by end-users. Given that 94 percent of Fortune 500 companies utilize customized OTC derivatives to manage macro-economic risk, providing less certainty to corporate balance sheets will severely undermine confidence in the American marketplace.

Further, the proposal to mandate exchange trading makes little sense in the bespoke OTC derivatives market. The basic assumption of exchange trading reflects the use of standard products. OTC derivatives by their very nature are not always standard. In the real world, mandating use of an exchange would inhibit the use of such customized derivatives that are useful financial management tools to hedge extremely specific risks. Bespoke derivatives cannot always be substituted with exchange traded or standardized OTC products. Even attempting to craft a carve-out for such derivatives raises the concern of whether the U.S. Securities and Exchange Commission and Commodities Future Trading Commission could agree on what should be traded.

Another red flag raised by the circulating proposals is the unintended consequence of segregating variation margin. The more capital a dealer has to set aside to purchase an asset, the fewer assets it can purchase. Heightened capital requirements restrict a dealer's ability to generate returns on its capital or provide loans to Main Street businesses, students heading to college, or families seeking a mortgage. It also does not protect end users or reduce systemic risk in any demonstrable way.

Corporate scandal and economic failure have provided such a regulatory catalyst many times in the past. It is alarmingly reminiscent of 2002, when Congress enacted Sarbanes-Oxley; introducing a host of new compliance requirements for accounting, corporate governance, and financial disclosure. But, in the years since the legislation took effect, the overhaul has come to be widely regarded as overly complex, unduly burdensome, and a severe disadvantage to American businesses in the global marketplace.

Congress should be instructed by the lessons of the past and not add such regulations that will impede capital formation. The simple, easy, but ultimately wrong answer is to issue a government mandate for every perceived problem. Thinking through the unintended consequences of overregulation and trusting market solutions is more difficult, but it is ultimately the only way to preserve the innovation that powers American markets.

## HONORING OUR ARMED FORCES

STAFF SERGEANT JUSTIN M. DECROW

Mr. BAYH. Mr. President, I rise today with a heavy heart to honor the life of SSG Justin M. Decrow. He was a member of the 16th Signal Company, 62nd Expeditionary Signal Battalion. Justin was only 32 years old when he was killed in the tragic November 5 shooting spree at Fort Hood, TX, that took the lives of 13 Americans and left 31 others wounded.

Those who enlist in our Armed Forces make an extraordinary sacrifice, agreeing to routinely face life-threatening dangers abroad as they carry out missions on our behalf. The risks they endure to protect our freedom are never expected to follow them from the theater of war to the safety of American soil, making Justin's death all the more painful and troubling.

Today, I join Justin's family and friends in mourning his untimely death. Justin will be remembered as a loving husband, father, son and friend to many. He is survived by his wife Marikay; his daughter Kylah; and his parents Rhonda Thompson and Daniel Decrow. Justin had returned over the summer from a year's deployment in South Korea before being stationed at Fort Hood.

A native of Plymouth, IN, Justin enlisted in the Army immediately after graduating from high school. At the time of his passing, he was a resident of Evans, GA, where he lived with his high school sweetheart and 13-year-old daughter in a house he built just a few years ago. Justin was planning to become an Army contractor at nearby Fort Gordon, working within his specialty of satellite communications training. At Fort Hood, he had been training soldiers to help new veterans with paperwork. Justin is remembered by family and friends as a very loving man, who enjoyed working with his hands.

While we struggle to express our sorrow over the loss of Justin, we can take pride in the example he set as a soldier, a husband, a father, and a son. Today and always, he will be remembered by family, friends and fellow Hoosiers as a true American hero, and we cherish the legacy of his service and his life.

It is my sad duty to enter the name of Justin M. Decrow in the RECORD of the U.S. Senate for his service to this country and for his profound commitment to freedom, democracy and peace.

I pray that the Decrow family, and the families of all the victims of this incomprehensible act, can find comfort in the words of the prophet Isaiah who said, "He will swallow up death in victory; and the Lord God will wipe away tears from off all faces."

## MILITARY AND VA APPROPRIATIONS

Mr. BOND. Mr. President, in this ever-difficult era of economic recession

and troops engaged overseas, I am proud to introduce this amendment with Senators UDALL of New Mexico and BINGAMAN which addresses a dual front plaguing our country's war heroes. That dual front emerges from two troubles that exist for our veterans dealing with the horrors of war abroad and lack of affordable housing at home.

This sad duality has a dark and tragic reality. To date, one out of every three homeless men sleeping somewhere in our cities and communities is a veteran. Veterans make up a significant and disproportionate amount—over 20 percent—of our country's homeless population. The number of homeless Vietnam-era veterans is greater than the number of service persons who died during that war. Regrettably, this dark shadow cast behind our Nation's veterans is stretching because we are seeing homelessness spread to veterans returning from the ongoing conflicts in Iraq and Afghanistan. Instead of receiving the services and benefits they deserve, veterans from Iraq and Afghanistan—as well as many American families—are at greater risk of homelessness due to a number of factors, such as the economic downturn, the acute shortage of affordable housing, and lingering mental health illnesses. Further, despite the efforts of the federal government and its partners at the State and local levels and their progress in addressing homelessness, there remain too many gaps in our safety net system to prevent homelessness.

For our troops and their families to whom we owe so much, who make great contributions to defend our country, and who risk their lives; is homelessness an acceptable outcome for them? Clearly, the answer is no. That is why I am proud to support this amendment with my colleagues from New Mexico and I value the work I have been a part of with my other colleagues and friends like Senators MURRAY, MIKULSKI, REED, and HUTCHISON.

This amendment sends a clear and strong message that we cannot allow our veterans to return to their communities without providing them the support they need. This is why we introduced this amendment which combines the necessary support and housing services to help our veterans. Veterans need a comprehensive approach that begins with secure and stable housing in order to provide them the opportunity to reintegrate into society and support their families. Our amendment fully funds the Homeless Grant and Per Diem Program, which is administered by the U.S. Department of Veterans Affairs and promotes the development of supportive housing and services with the goals of helping homeless veterans achieve residential stability, increase their skill levels and income and develop greater self-determination. In closing, I thank my colleagues from New Mexico and the managers of the Military Construction and Veterans Affairs appropriations bill for their sup-

port. I sincerely believe that the passage of this amendment will be another example of our shining and unwavering commitment to our veterans.

#### PRESIDENTIAL CAMPAIGN

Mr. BURRIS. Mr. President, in the last century, Dr. Martin Luther King, Jr., spoke often of “the arc of the moral universe” and how it bends toward justice. He held an optimistic but unvarnished view of our country and saw that America's greatness lives in the promise of expanding equality and opportunity.

Sadly, for parts of our history, the halls of civil discourse were closed to people of color, women, and other groups. Too many Americans were denied the freedom that our founding documents guaranteed to every individual, and for far too long. But here in the United States, it is inevitable that justice wins out over tyranny in the end.

Thanks to the leadership of Dr. King and countless other trailblazers—of all races, backgrounds, and walks of life—today's America is more free, more fair, and more equal than our forefathers could possibly have dreamed. And today, I come to the floor in honor of one of these real-life trailblazers.

Twenty-five years ago, it was almost inconceivable that a person of color could become President of the United States. But that did not stop the Reverend Jesse L. Jackson, Sr., from mounting a serious campaign. Some applauded the effort, and some decried it as foolishness. Some said that America was not ready. But Reverend Jackson was undeterred. He laid righteous claim to the values that define us as Americans, and he shared his vision with all those who would listen and some who would not. And under his leadership, an otherwise ordinary Presidential campaign became a movement. People across America were inspired by what they saw, what they heard, and what they read. They turned out in droves to campaign for Reverend Jackson, to hear him speak, and to offer their support.

Twenty-five years ago, Rev. Jesse Jackson decided to run for President. And his bold campaign changed American politics forever. As Dr. King would say, he and his supporters put their hands on the arc of the moral universe and caused it to bend just a bit further. He broke down barriers, he shattered prejudice, and he paved the way for all who came after. He left an indelible mark on the political and social landscape in this Nation and his contributions will be felt for many years to come.

In 2008, thanks to the leadership and vision of Jesse Jackson, Martin Luther King, Jr., and countless others, America did what was once unthinkable: we elected an African-American man named Barack Obama to the highest office in our land. It was a day I never thought I would be fortunate enough to

see. But it showed the world once again that this is a nation of high ideals and higher aspirations. It proved the enduring truth of the American dream and reinforced the true character of our great country.

This Nation owes a great deal to Reverend Jackson and many like him, who continue to share their talent, their vision, and their abiding faith with the American people. So today, 25 years after his historic run for President, I rise to thank Jesse Jackson for all that he has done and for all that he continues to do. And even as we honor his accomplishments, we know that we can look to the future with optimism, secure in the certain knowledge that we are in control of our destiny.

We, the American people, have the power to determine the course of this Nation, as Reverend Jackson reminded us a quarter of a century ago. That is the legacy to which he belongs—a legacy of equality and opportunity, which he has left to each of us.

Let us honor that legacy and carry it forward, so future generations can share in the ever-expanding promise of the American dream.

#### CONGRESSIONAL AWARDS PROGRAM

Mr. ENZI. Mr. President, I am very pleased to have this opportunity to acknowledge one of our great success stories—the Congressional Awards—on the occasion of their 30th anniversary. This is a great milestone in the history of a program that has served to inspire and encourage countless young people across the country since it was first signed into law in 1979.

Thirty years ago, Senator Malcolm Wallop of Wyoming and Congressman James Howard of New Jersey joined forces to establish and promote the Congressional Awards and provide this great opportunity to young people all across the Nation. Today this program is achieving results throughout the United States far beyond what anyone could have ever expected. One by one, students are rolling up their sleeves and getting to work, establishing personal goals as well as goals for community service. Their dedication has made it possible for them to make a great difference in the world right where it should always start—in their own backyard.

The Congressional Awards program has deep Wyoming roots because Malcolm Wallop helped to provide the leadership that led to its creation. It has deep roots in Wyoming because it has inspired our young people to a truly remarkable degree. The popularity of this program extends from one corner of my home State to the other and it continues to spark the imagination and encourage the enthusiastic participation of another group of participants every year.

Because of the great work this program makes possible, I try to attend as many award ceremonies as I possibly